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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,362	04/29/2002	Luciano Salda	010751-057	2581
21839	7590	11/13/2003	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			SHAPIRO, JEFFERY A	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/031,362	SALDA, LUCIANO
	<b>Examiner</b>	<b>Art Unit</b>
	Jeffrey A. Shapiro	3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 April 2002.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) 1 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: it is suggested that a semicolon be placed after the word "comprising" in line 2. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 2 recites the limitations "bottom opening" and "selected passage hole" in the last two lines. There is insufficient antecedent basis for this limitation in the claim.
4. Claims 6 and 7 recite the limitation "shell" in line 1 of Claim 6 and the last line of Claim 7. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 8 recites the limitation "bearing shaft" in line 1. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "identifying means" may be assigned to an "insertion opening" or "a receiving means" or "a support plate" or said "intermediate bottom" or any combination of these. There are many possible combinations, thus rendering the claims indefinite.
7. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. It appears that the storage and/or evaluation means is "connected" rather than "assigned" to the identifying means.

8. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "assigned" in Claim 13 is used by the claim to mean "connected", while the accepted meaning is "to transfer to, appoint to a duty, to specify a relationship between something." The term is indefinite because the specification does not clearly redefine the term.

9. Claim 14 recites the limitation "identifying means" in line 1. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by the phrase "said shell is held by means of a radial arm by a bearing sleeve". It is suggested that the word "by" be replaced with the term "with".

11. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coyne et al (US 6,547,055 B2). Coyne discloses Applicant's claimed apparatus as follows.

As described in Claim 1;

- a. an insertion opening (26a) for receiving the container and at least one distributing means (22a or b) for transporting the container from said insertion opening to a selectable processing means of said return device;
- b. said distributing means comprising at least one intermediate bottom (note that the bottom surface of the hopper (22a and/or 22b) may be construed as an intermediate bottom) and a receiving means (32) which is movable relative to said bottom and transports said container away from said insertion opening (note that the system of Coyne et al performs in a functionally equivalent manner as Applicant's apparatus in that it has a disc which has an aperture through which the containers pass—see jets (42a and b) which force the container through an aperture to either side of the disc);

Art Unit: 3653

c. said receiving means comprises a bottom opening relative to which a sorting opening of said intermediate bottom can be positioned for passing said container therethrough to the selected processing means (again, note that there is a sorting opening in the plate (32) which is positioned for passing said container to the processing means (60), the processing means being discloses as a compactor, as described in col. 6, lines 42-47);

As described in Claim 2;

d. said return device has arranged therein a support plate (note that plate (32) holds the containers) which comprises a number of passage holes, each assigned to at least one processing means, and relative to which said intermediate bottom is movable for arranging said sorting opening between the bottom opening and the selected passage hole;

As described in Claim 3;

e. said receiving means comprises a shell which can be assigned with its open side to said insertion opening (note that the entire apparatus of Coyne et al is enclosed by a cabinet);

As described in Claim 4;

f. said intermediate bottom is circular and rotatable about its center axis (note that the disc (32) is rotatable about a center axis);

As described in Claim 5;

Art Unit: 3653

- g. said sorting opening is designed as a radially outwardly open peripheral recess;

As described in Claim 6;

- h. a shell is rotatably supported in coaxial fashion relative to said center axis;

As described in Claim 7;

- i. a bearing shaft extends substantially in a vertical direction from said support plate and has rotatably supported thereon a shell and/or intermediate bottom;

As described in Claim 8;

- j. a bearing shaft, said shaft being a hollow shaft;

As described in Claim 9;

- k. said passage holes are arranged along a circle in concentric fashion relative to said intermediate bottom;

As described in Claim 10;

- l. a guide extends from each passage hole to a corresponding processing means;

As described in Claim 11;

- m. at least one identifying means (50) is assigned to said insertion opening and/or receiving means and/or said support plate and/or said intermediate bottom for identifying at least one characteristic feature of said container;

As described in Claim 12;

- n. the characteristic feature of said container is the geometrical shape thereof; (Note that it would be obvious to use the optical scanner (52) to scan for geometrical shape—see Leser, cited by Applicant, for example. Note also that Coyne discloses using a metal detector (56) for further verifying the container identification—it would only improve the accuracy of the verification to use the shape of the container as a further criterion.)

As described in Claim 13;

- o. a storage and/or evaluation means is assigned to said identifying means, in particular for storing different geometrical shapes of said container and for comparing a container to be recognized with a stored shape (note that the scanner and identification means of Coyne must necessarily have a storage and evaluation means so that bar codes or other patterns such as metal types read by the metal detector can properly be compared to what they are supposed to be, therefore creating a basis for either rejection or acceptance of the container);

As described in Claim 14;

- p. said identifying means is designed as a scanning means and is movable relative to the container to be scanned (note that the rollers of Coyne move the container relative to the container);

As described in Claim 15;

Art Unit: 3653

q. said intermediate bottom comprises a rotational sleeve which is rotatably attached to the bearing shaft of said support plate;

As described in Claim 16;

r. said shell is held by means of a radial arm by a bearing sleeve which is rotatably attached to said rotational sleeve;

As described in Claim 17;

s. said rotational sleeve of said intermediate bottom is rotatably supported in the hollow shaft of said support plate and a bearing shaft of said receiving means is rotatably supported in said rotational sleeve;

As described in Claim 18;

t. said shell of said receiving means and said intermediate bottom are rotatable according to signals of said identifying means;

As described in Claim 19;

u. said intermediate bottom is sector-like;

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Steidel et al, Kroghrud, Coyne et al (US 6,186,308 B1), Reid et al, Hammond, Crosby et al, Vetter et al, Hampson et al, Schindel and Dellinger, Jr. et al are all cited as examples of reverse vending machines.

Art Unit: 3653

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Jeffrey A. Shapiro  
Examiner  
Art Unit 3653

November 2, 2003



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